

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:97-CR-82-22

v.

HON. ROBERT HOLMES BELL

CHARLES WASHPUN,

Defendant.

/

MEMORANDUM OPINION AND ORDER

Defendant Charles Washpun has filed a motion for modification or reduction of sentence (ECF No. 1335) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

The probation department has prepared a sentence modification report recommending no reduction in the original sentence (ECF No. 1354). The report indicates that based on Amendment 782 the Court should not reduce a defendant's sentence because the guideline range has not been lowered as a result of the 2014 drug amendment. Defense counsel has filed a response to the

sentence modification report (ECF No. 1361) and wishes to preserve the issue for future consideration should the law change. The government has filed a response to the sentence modification report (ECF No. 1362) and concurs with the Probation Office assessment that Defendant is not eligible for a sentence modification pursuant to Amendment 782.

Therefore, IT IS HEREBY ORDERED that Defendant Charles Washpun's motion for modification of sentence (ECF No. 1335) pursuant to 18 U.S.C. § 3582(c)(2) is **DENIED**.

Dated: June 23, 2015

/s/ Robert Holmes Bell

ROBERT HOLMES BELL

UNITED STATES DISTRICT JUDGE